

### **REMARKS**

Claims 1-24 are pending in this application, with claims 9-22 having been withdrawn from consideration based on Applicant's election of claims for prosecution on the merits, and the absence of an allowable generic or linking claim.

Applicant has amended claims 1, 2, 5-8, 23, and 24. The changes to these claims made herein do not introduce any new matter.

Applicant appreciates the Examiner's prompt indication that claims 7 and 8 define allowable subject matter. Applicant's responses to the issues raised in the Office Action are set forth below.

#### **Objection to the Specification**

In response to the objection to the specification, Applicant has amended the specification to include a section entitled "Cross-Reference to Related Application" in which the foreign priority application is identified. Accordingly, Applicant requests that the objection to the specification be withdrawn.

#### **Claim Objections**

In response to the claim objections, Applicant has amended claims 1, 2, 5-8, 23, and 24 to correct the informalities cited by the Examiner. Accordingly, Applicant requests that the claim objections be withdrawn.

#### **Rejection Under 35 U.S.C. § 101**

In response to the rejection of claim 24 under 35 U.S.C. § 101 as being directed toward non-statutory subject matter, Applicant has amended claim 24 along the lines suggested by the Examiner. Applicant submits that claim 24 now defines statutory subject matter under 35 U.S.C. § 101, and requests that the rejection of this claim thereunder be withdrawn.

Rejection Under 35 U.S.C. § 102

Applicant respectfully requests reconsideration of the rejection of claims 1, 2, 23, and 24 under 35 U.S.C. § 102(b) as being anticipated by *Herman et al.* (“*Herman*”) (U.S. Patent No. 6,075,905). As will be explained in more detail below, the *Herman* reference does not disclose each and every feature specified in independent claims 1, 23, and 24, as amended herein.

The *Herman* reference discloses a method and apparatus for mosaic image construction. With regard to source image selection, the *Herman* reference states “[a] set of images to be combined into a mosaic is selected from the available source images. This may be done manually or automatically.” Column 4, lines 23-25. Thus, the *Herman* reference merely discloses a technique for improving the quality of images to be synthesized. On the other hand, the claimed subject matter includes determining, on the basis of image quality setting data that can set the image quality of the output image, a number of frames of data to be acquired. The *Herman* reference does not disclose (or suggest) using image quality setting data to carry out image generation. Thus, for at least this reason, the claimed subject matter is distinguishable from the method and apparatus for mosaic image construction shown in the *Herman* reference.

Accordingly, for at least the foregoing reasons, claims 1, 23, and 24 are patentable under 35 U.S.C. § 102(b) over *Herman*. Claim 2, which depends from claim 1, is likewise patentable under 35 U.S.C. § 102(b) over *Herman* for at least the same reasons set forth above regarding claim 1.

Rejections Under 35 U.S.C. § 103

Applicant respectfully requests reconsideration of the rejection of claims 3 and 4 under 35 U.S.C. § 103(a) as being unpatentable over *Herman* in view of *Miyake* (U.S. Patent No. US 6,804,419 B1). Claims 3 and 4 ultimately depend from claim 1. The deficiencies of

the *Herman* reference relative to the subject matter defined in claim 1, as amended herein, are discussed above in connection with the anticipation rejection of claim 1. The *Miyake* reference does not cure the above-discussed deficiencies of the *Herman* reference relative to the subject matter defined in amended claim 1. In particular, the cited portion of the *Miyake* reference states “the number of frames for use in preparing one still image is increased by setting the upper limit of b to be large, the image quality after the interpolation is further enhanced.” Column 10, lines 65-67. Thus, *Miyake* also discloses a technique for improving the quality of the images to be synthesized, and does not disclose or suggest using image quality setting data to carry out image generation. Accordingly, claim 1, as amended herein, is patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Miyake*. Claims 3 and 4 are likewise patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Miyake* for at least the reason that these claims ultimately depend from claim 1.

Applicant respectfully requests reconsideration of the rejection of claims 5 and 6 under 35 U.S.C. § 103(a) as being unpatentable over *Herman* in view of *Miyake*, and further in view of *Inuzuka et al.* (“*Inuzuka*”) (U.S. Patent No. US 6,784,891 B2). Claims 5 and 6 ultimately depend from claim 1. The deficiencies of the combination of the *Herman* and *Miyake* references relative to the subject matter defined in claim 1, as amended herein, are discussed above. The *Inuzuka* reference does not cure the above-discussed deficiencies of the combination of the *Herman* and *Miyake* references relative to the subject matter defined in amended claim 1. In particular, the cited portion of the *Inuzuka* reference states “[i]ncidentally, in order to enhance an image quality, if the number of pixels and the frame rate are increased, and thus a capacity of the image data increases....” Column 1, lines 47-49. Thus, the cited portion of the *Inuzuka* reference merely describes a technique for improving the quality of the images to be synthesized, and does not disclose or suggest using image

quality setting data to carry out image generation. Accordingly, claim 1, as amended herein, is patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Miyake*, and further in view of *Inuzuka*. Claims 5 and 6 are likewise patentable under 35 U.S.C. § 103(a) over the combination of *Herman* in view of *Miyake*, and further in view of *Inuzuka* for at least the reason that these claims ultimately depend from claim 1.

Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of claims 1-8, 23, and 24, as amended herein, and submits that these claims are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 749-6902. If any additional fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP077).

Respectfully submitted,  
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